IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1761 of 2005

To

SPECIAL CIVIL APPLICATION No. 1776 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE MR SHAH

==========

1	Whether Reporters of Local Papers may be allowed to see the judgement ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copyu of the judgement ?
4	Whether this case involves a substantial question of law as to the interpretation of the constituition of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judgte ?

==========

NANKU SHITTEDIN - Petitioner(s)

Versus

EMPLOYEES STATE INSURANCE CORPORATION - Respondent(s)

==========

Appearance :

MR SUBRAMANIAM IYER for Petitioner No(s).: 1.

NOTICE SERVED BY DS for Respondent No(s).: 1.

MR SHASHIKANT S GADE for Respondent No(s).: 1.

==========

CORAM :HON'BLE MR JUSTICE MR SHAH

Date : 17/06/2005

ORAL JUDGMENT

Rule. Shri Shashikant S. Gade, learned advocate appearing on behalf of the respondents waives service of Rule. With the consent of the learned advocates appearing for the parties the matter is taken up for final hearing today.

2. In this group of petitions, the respective petitioners have prayed for an appropriate writ, order or direction directing the respondent No.1 to pay the amount of interest at the rate of 12% as per the direction issued by the E.S.I. Court vide order dated 20th May 2004 in ESI Application No. 5/2003 and other cognate applications.

3. Shri Shashikant Gade, learned advocate appearing for the respondent Corporation has submitted that against the said order passed by the ESI Court the respondent Corporation has preferred First Appeals No. 375 of 2005 to 391 of 2005 and therefore no order could be passed directing the respondent Corporation to make payment as per the order passed by the ESI Court.

4. Shri Subramaniam Iyer, learned advocate appearing for the petitioners has submitted that mere filing of appeal is not sufficient ground for not making payment but the respondent has to comply with the order passed by the ESI Court. Shri Iyer is right in his submission that merely by filing appeals and without obtaining any order of stay of the order passed by the ESI Court the Corporation is not justified in not complying with the order passed by the ESI Court. However, in the interests of justice, and in view of the facts and circumstances of the case, the respondent No.1 Corporation is granted four weeks' time to obtain appropriate order in the aforesaid appeals No. 375 to 391 of 2005. If no order is obtained in the said first appeals, the respondent No.1 is directed to make payment as per the order passed by the ESI Court in the respective applications within the period of 15 days from the date of receipt of this order subject to ultimate outcome of the First Appeals. If any order is passed by this Court in the aforesaid appeals the parties are bound to act according to the same.

5. Rule is made absolute in each of the matter with no order as to costs.

[M.R. Shah, J.]

rmr.